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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

C & W ASSET ACQUISITION LLC,

Plaintiff and Respondent,

v.

ROBERT FALCHE,

Defendant and Appellant.

A105998, A106484

(Alameda County
Super. Ct. No. 829358-5)

The present appeals are the third and fourth in the case, which is a collection action by respondent C & W Asset Acquisition LLC against appellant Robert Falche. The first appeal, by respondent, was from a judgment that among other things held appellant liable for an unpaid balance of the debt. We reversed the judgment in part and directed entry of a new judgment consistent with our opinion. (*C & W Asset Acquisition LLC v. Independence Petroleum Company* (Aug. 27, 2002, A096831 [nonpub. opn.].) The second appeal, by appellant, was from the amended judgment entered in January 2003 in the wake of our decision (hereafter the First Amended Judgment). We dismissed that appeal as untimely. (*C & W Asset Acquisition LLC v. Robert Falche* (Sept. 23, 2003, A102090 [nonpub. opn.].) The current appeals are from the further “Amended Judgment

Adding Post-Judgment Attorney Fees, Costs and Interest” filed in March 2004 (hereafter the Second Amended Judgment).¹

Appellant contends that the Second Amended Judgment is erroneous in various respects, but most of his arguments are foreclosed by his failure to timely appeal from the First Amended Judgment. “An appealable order or judgment becomes *final* for all purposes once all avenues for appellate review are exhausted or the appeal time-frame has otherwise lapsed. Thus, the issues determined in an appealable judgment or order from which no timely appeal was taken are *res judicata*.” (Eisenberg et al., Cal. Practice Guide: Civil Appeals and Writs (The Rutter Group 2003) [¶] 2:13.1, pp. 2-11 to 2-12 (rev. #1, 2002).)

Appellant argues that respondent is not entitled to attorney’s fees under the parties’ contract, that interest on the obligation should be accruing at the rate of 8.5 percent rather than 10 percent as reflected in the Second Amended Judgment, and that the addition of interest, costs, and attorney’s fees by means of respondent’s motion for the Second Amended Judgment was procedurally improper. However, these points were conclusively resolved against appellant in the First Amended Judgment, which provides in relevant part: “Post-judgment interest at the statutory rate of 10% shall accrue from the date of entry of this Judgment until paid. [¶] . . . [¶] C & W may file a noticed motion for an amended judgment to add all costs and attorneys fees pursuant to contract, that may have to be expended in the collection of said judgment.” In view of these provisions, appellant cannot claim that he is not liable for respondent’s attorney’s fees and costs of collection, and cannot complain of the 10 percent interest rate, or of the entry of a Second Amended Judgment for additional fees, costs, and interest on respondent’s motion.

Appellant submits that the Second Amended Judgment improperly awards as costs of collection the attorney’s fees respondent incurred in defending the purported appeal

¹ The appeal in A105998 is untimely insofar as it also purports to be taken from the January 2003 judgment. (Cal. Rules of Court, rule 2(a).) The present appeals are redundant; the briefs in each are identical.

from the First Amended Judgment. While this argument is not precluded by the terms of the First Amended Judgment, it nevertheless lacks merit. (See *Security Pacific Nat. Bank v. Casavant* (1988) 205 Cal.App.3d 127, 132-133 [creditor entitled to contract fees for successful defense of appeal]; *Aspen Internat. Capital Corp. v. Marsch* (1991) 235 Cal.App.3d 1199, 1207 [responding to appeal was necessary for collection of debt].)

The judgment is affirmed.

Kay, P.J.

We concur:

Sepulveda, J.

Rivera, J.